IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4073 OF 2004

The Tata Power Co. Ltd. ... Petitioner

V/s.

Babu Maruti Shelar & Ors. ... Respondents

Mr.K.M. Naik i/b Sujeet P. Salkar for Petitioner
Mr.A.B. Borkar for Respondents

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **AUGUST 31, 2004**

P.C.:

. The Petition is directed against the order of the Industrial Court condoning the delay in filing the complaint which has been filed under Items 9 and 10 of Schedule IV of the MRTU & PULP Act. According to the employer, the Industrial Court should not have condoned the delay since there was no continuing cause of action and the respondents had approached the Industrial Court after over six years of their termination from service. The letters of termination are of the years 1992, 1993 and 1994. There is no averment made in the complaint or the application for condoning the delay as to the reason for the delay caused in filing a complaint in respect of the workmen. Therefore, according to the Petitioner, no sufficient cause has been made out for condoning the delay.

2. Reliance is also placed on the judgment of this Court in the case of *Raigad General Kamgar Sanghatana v/s. Tata Hydro Electric Power Supply Co. Ltd.,* **Writ Petition No.5272 of 2003** where the complaint was filed against the petitioner in the present case. It is obvious that the complaint has been filed on account of the termination of the services of the workmen despite the same being filed under Items 9 and 10 of Schedule IV of the MRTU & PULP Act. There can be no continuing cause of action if the services are terminated albeit in violation of the standing orders. Once the action of termination takes place, the cause of action arises and a complaint would have to be filed within three months from that date. The tenor of the complaint shows that the workmen were aggrieved by the termination of services and not merely by them being kept as temporary workmen for years together. In these circumstances, it is difficult to uphold the order of the Industrial Court.

3. Mr.Borkar, learned Advocate for the Respondents, when faced with this difficulty, submits that he may be permitted to withdraw the complaint with liberty to file appropriate proceedings in the matter. Mr.Naik has no objection to this.

4. The complaints filed by the workmen, thus, stand withdrawn. The workmen may take appropriate proceedings to ensure justice against them. All contentions of either party are kept open to be agitated in the proceedings.

5. Writ Petition is disposed of accordingly.